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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

22 Cr. 395 (ER)

5 BRANDON WONG,

6 Defendant.

7 -----x

Plea

8 April 10, 2023

9 11:05 a.m.

10 Before:

11 HON. EDGARDO RAMOS,

12 District Judge

13
14 APPEARANCES

15 DAMIAN WILLIAMS

16 United States Attorney for the
Southern District of New York

17 BY: NICOLAS T. ROOS

18 Assistant United States Attorney

19 KRIEGER KIM & LEWIN, LLP

Attorneys for Defendant

20 BY: ANDREW N. STAHL

21 EDWARD Y.K. KIM

Nra2WonP kjc

1 (Case called)

2 THE DEPUTY CLERK: Counsel, please state your name
3 for the record.

4 MR. ROOS: Good morning. Nick Roos for the U.S.

5 THE COURT: Good morning.

6 MR. STAHL: Good morning, your Honor. Andrew Stahl on
7 behalf of Mr. Wong.

8 MR. KIM: And, your Honor, Edward Kim for Mr. Wong, as
9 well.

10 THE COURT: Good morning to you all.

11 Mr. Roos, what are we doing today?

12 MR. ROOS: Your Honor, I believe we are here for a
13 change of plea for Mr. Wong.

14 THE COURT: Mr. Stahl?

15 MR. STAHL: Yes, your Honor. That's correct.

16 THE COURT: Very well. Mr. Wong, your attorney has
17 advised me that you wish to enter a plea of guilty. I am
18 happy to take your plea. However, before I do that, I need to
19 ask you a series of questions, and basically I am trying to
20 make two large determinations.

21 In the first instance, I am trying to determine
22 whether you understand what is going on here today and the
23 consequences of pleading guilty; and then, in the second
24 place, I am trying to determine whether you are in fact guilty
25 to the crime to which you wish to plead guilty.

Nra2WonP kjc

1 In order to make those determinations, I have to ask
2 you a series of questions. It's vitally important that you be
3 absolutely truthful, so I am going to have you placed under
4 oath. Okay?

5 THE DEFENDANT: Yes, your Honor.

6 THE DEPUTY CLERK: Please stand and raise your right
7 hand.

8 You do solemnly swear that the testimony you shall
9 give this Court shall be the truth, the whole truth, and
10 nothing but the truth, so help you God.

11 THE DEFENDANT: I do, yes.

12 THE COURT: Sir, you may be seated and from this
13 point forward no one has to stand. You can remain seated.
14 Just speak directly into the microphone when you do speak.

15 Mr. Wong, you are now under oath, and do you
16 understand that if you answer any of my questions falsely,
17 your answers could be used against you in a prosecution for
18 perjury or for making a false statement?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: As I indicated, I am going to ask you a
21 series of questions. If I ask you a question and you don't
22 understand it, just let me know that and I will rephrase it.
23 Or if I ask you a question and you wish to speak with your
24 attorneys before you answer, let me know that and I will
25 accommodate you. Okay?

Nra2WonP kjc

1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: So we are going to start with some
3 background questions.

4 Sir, what is your full name?

5 THE DEFENDANT: It's Brandon Chun Wong.

6 THE COURT: And how old are you?

7 THE DEFENDANT: 39.

8 THE COURT: How far did you get in school?

9 THE DEFENDANT: I went to college, but I didn't
10 complete it.

11 THE COURT: Are you able to read and write in
12 English?

13 THE DEFENDANT: Yes.

14 THE COURT: Are you now or have you recently been
15 under the care of a doctor or a psychiatrist?

16 THE DEFENDANT: No, your Honor.

17 THE COURT: Have you ever been hospitalized or
18 treated for any mental illness or any type of addiction,
19 including drug or alcohol addiction?

20 THE DEFENDANT: No, your Honor.

21 THE COURT: In the past 24 hours, have you taken any
22 drugs, medicine, or pills, or have you consumed any alcohol?

23 THE DEFENDANT: No, your Honor.

24 THE COURT: Is your mind clear today?

25 THE DEFENDANT: Yes, it is, your Honor.

Nra2WonP kjc

1 THE COURT: And, Mr. Wong, are you feeling well
2 enough to proceed and to understand what is going on here
3 today?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Your attorneys have informed me that you
6 wish to enter a plea of guilty. Is that correct?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: And Mr. Wong, have you had a full
9 opportunity to discuss your case with your attorneys,
10 including any possible defenses that you might have?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: And have you had a full opportunity to
13 discuss with them the consequences of entering a plea of
14 guilty?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Are you satisfied with your attorneys and
17 their representation of you?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Does either counsel have any doubt as to
20 Mr. Wong's competence to enter a guilty plea at this time?

21 Mr. Roos.

22 MR. ROOS: No, your Honor.

23 THE COURT: Mr. Stahl.

24 MR. STAHL: No, your Honor.

25 THE COURT: Very well. On the basis of Mr. Wong's

Nra2WonP kjc

1 responses to my questions and my observations of his demeanor,
2 I find that he is fully competent to enter an informed guilty
3 plea at this time.

4 So the next series of questions that we need to go
5 over involve the rights that you are giving up by pleading
6 guilty, including constitutional rights, so please listen very
7 carefully.

8 First, you have a right to be represented by an
9 attorney at trial and at every other stage of the proceeding.
10 If you could not afford an attorney, an attorney would be
11 appointed to represent you without cost to you.

12 Do you understand that?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: You have a right to a speedy and public
15 trial by a jury on the charges against you which are contained
16 in the indictment.

17 Do you understand?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: At trial, you would be presumed innocent
20 and the government would be required to prove you guilty by
21 competent evidence beyond a reasonable doubt before you could
22 be found guilty. You would not have to prove that you were
23 innocent at trial.

24 Do you understand that?

25 THE DEFENDANT: Yes, your Honor.

Nra2WonP kjc

1 THE COURT: If there were a jury trial, the jury
2 would be composed of 12 people selected from this district,
3 and all 12 would have to agree unanimously that you were
4 guilty before you could be found guilty.

5 Do you understand?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: At trial, you would have a right to see
8 and hear all of the witnesses against you and your attorney
9 could cross-examine them. Your attorney could object to the
10 government's evidence and offer evidence on your behalf. You
11 would also have the right to have subpoenas issued to compel
12 witnesses to come to court to testify in your defense.

13 Do you understand that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: At trial, you would have the right to
16 testify if you wanted to, but no one could force you to
17 testify. And if you chose not to testify, the jury would be
18 told that it could not hold that against you.

19 Do you understand?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: If you were convicted at trial, you would
22 have the right to appeal that verdict.

23 Do you understand?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: And, sir, do you also understand that by

Nra2WonP kjc

1 entering a plea of guilty here today you are giving up all of
2 the rights that I have just described except for your right to
3 counsel and you will be found guilty based solely on your plea
4 of guilty?

5 Do you understand?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: And Mr. Wong, do you understand that you
8 can change your mind right now for any reason and decide that
9 you did not wish to enter a plea of guilty?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Sir, have you received a copy of the
12 indictment?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: And have you read the indictment?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: And did you discuss the indictment with
17 your attorney?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: And do you understand that you are
20 charged in Count Eight of that indictment with securities
21 fraud in violation of Title 15 of the United States Code
22 Section 78j(b) and 78ff and Title 17 of the Code of Federal
23 Regulations Section 240.10b-5 and 240.10b5-1 and 10b5-2 and
24 Title 18 of the United States Code Section 2.

25 Do you understand that?

Nra2WonP kjc

1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Mr. Roos, what are the elements of that
3 charge?

4 MR. ROOS: Yes, your Honor.

5 There are three elements with some subcomponents:

6 First, that in connection with the purchase or sale
7 of securities, the defendant did any one or more of the
8 following things—first employed a device, scheme, or artifice
9 to defraud or made an untrue statement of material fact or
10 omitted to state a material fact that under the circumstances
11 was misleading or engaged in an act, practice, or course of
12 business that operated or would operate as a fraud or deceit
13 upon a purchaser or seller. For purposes of this element,
14 that is, the first element, a device, scheme, or artifice to
15 defraud includes insider trading. And for purposes of insider
16 trading, the law prohibits a person who is not an insider from
17 trading in securities based on material nonpublic information
18 if the person knows the material nonpublic information was
19 intended to be kept confidential and was disclosed in
20 violation of a duty of trust or confidence. On that score,
21 the government must prove, one, that the insider owed a duty
22 of trust and confidence; second, that the insider violated the
23 duty of trust and confidence by disclosing material nonpublic
24 information --

25 THE COURT: Slow down just a bit, Mr. Roos.

Nra2WonP kjc

1 MR. ROOS: My apologies, your Honor.

2 Two, that the insider violated the duty of trust and
3 confidence by disclosing material nonpublic information to the
4 defendant; three, that the insider anticipated that the
5 defendant would use the material nonpublic information to
6 trade securities or to cause others to trade securities that
7 the defendant did in fact trade or cause others to trade; four,
8 that the insider, in providing this information to the
9 defendant, anticipated receiving a personal benefit of some
10 kind in return; and, finally, five, that the defendant knew
11 that the insider disclosed the information in breach of a duty
12 of trust and confidence and in anticipation of personal
13 benefit.

14 The second element of securities fraud is that the
15 defendant acted knowingly, willfully, and with intent to
16 defraud.

17 And the third element is that, in furtherance of the
18 fraudulent conduct, there occurred at least one use of any
19 means of instrument of transportation or communication in
20 interstate commerce or the use of the mails or the use of any
21 facility or of any national securities exchange.

22 Finally, the government would have to satisfy venue
23 by a preponderance.

24 THE COURT: Thank you, Mr. Roos.

25 Mr. Wong, did you hear what the prosecutor said?

Nra2WonP kjc

1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: And, sir, do you understand that if you
3 did not plead guilty to Count Eight, the government would have
4 to prove each and every element of that charge beyond a
5 reasonable doubt at trial?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: And Mr. Wong, have you spoken with your
8 lawyers about the possible punishment that you face if you
9 were to plead guilty to this charge?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Sir, do you understand that this charge
12 carries a maximum term of imprisonment of 20 years?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: And a maximum term of supervised release
15 of three years?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: And, in addition, there are financial
18 penalties, including a \$100 special assessment that I must
19 impose, and a fine that I could impose that can be the higher
20 of either \$5 million or twice the gross gain from the offense
21 or twice the gross loss to any victim of the offense.

22 Do you understand that?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: I mentioned the term "supervised
25 release." Do you understand that supervised release means

Nra2WonP kjc

1 that you will be subject to monitoring and supervision when
2 you are released prison if I sentence you to a prison term?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: And that there are terms and conditions
5 of supervised release with which you must comply, and if you
6 do not comply with them, you could be returned to prison
7 without a jury trial?

8 Do you understand that?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Do you also understand that if you
11 violate the terms or conditions of supervised release and are
12 returned to prison, that new prison term could be for part or
13 all of the term of supervised release and that you will not
14 receive credit for time previously served in prison on your
15 sentence or for time previously served in prison on a
16 violation of supervised release?

17 Do you understand that?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Sir, do you also understand that, as part
20 of your sentence, I can also order you to pay restitution to
21 any person injured as a result of your conduct?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: And Mr. Wong, do you further understand
24 that if I accept your guilty plea, that determination may
25 deprive you of valuable civil rights, such as, the right to

Nra2WonP kjc

1 vote, the right to hold public office, the right to serve on a
2 jury, the right to possess any kind of firearm, and the right
3 to hold certain professional licenses?

4 Do you understand that?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Mr. Wong, are you a U.S. citizen?

7 THE DEFENDANT: Yes, I am, your Honor.

8 THE COURT: The next series of questions that we need
9 to go over concern the sentencing guidelines. So let me begin
10 by asking you, do you understand that there are sentencing
11 guidelines that I must consider in determining the appropriate
12 sentence in your case?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: And have you spoken with your lawyers
15 about how the guidelines apply to your case?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: And sir, do you understand that I have to
18 calculate the applicable guidelines range and then consider
19 that range in determining what your sentence will be?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Do you also understand that I will not be
22 able to make that calculation until after a presentence report
23 has been completed by the probation office and both you and
24 your lawyers and the government have had a chance to review a
25 draft of that report?

Nra2WonP kjc

1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Do you further understand that after I
3 receive the final copy of that report and calculate the
4 guidelines range, I have the ability to impose a sentence that
5 can be higher or lower than what the guidelines recommend?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: And, sir, do you also understand that, in
8 addition to determining the applicable guidelines range, I
9 also have to take into consideration a number of factors that
10 are set forth in the law known as Title 18 of the United
11 States Code Section 3553(a) which require me to consider,
12 among other things, the nature of the offense and your history
13 and characteristics in determining the appropriate sentence?

14 Do you understand that?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: And so even after I calculate the
17 applicable guidelines range, I must consider these other
18 factors and, again, might settle on a sentence higher or lower
19 than what the guidelines recommend.

20 Do you understand that?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Sir, do you understand that if your
23 attorneys or anyone else has attempted to estimate or predict
24 what your sentence will be, their estimate or prediction could
25 be wrong?

Nra2WonP kjc

1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: And while it is perfectly appropriate for
3 you and your attorneys to have discussed how the sentence will
4 be calculated, no one can give you any assurance of what your
5 sentence will be.

6 Do you understand that?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Mr. Wong, I say all of this to you
9 because you need to understand today that if your sentence is
10 different from what your attorney or anyone else told you it
11 might be or if it is different from what you expect or even if
12 it is different from what is contained in your agreement with
13 the government, you will still be bound by your guilty plea
14 and you will not be allowed to withdraw your guilty plea.

15 Do you understand that?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Mr. Wong, do you understand that if you
18 are sentenced to prison, there is no parole in the federal
19 system and you will not be released early on parole?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: The next thing that we need to discuss
22 involves the plea agreement. I have been provided with a
23 letter. It is dated February 25, 2023. It is a six-page
24 letter, and on page 6 there are a series of signatures,
25 including one that purports to be yours. Can you see this

Nra2WonP kjc

1 from where you are seated?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Is that your signature on this page?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: This document will be marked as Court
6 Exhibit 1.

7 Mr. Wong, did you read this agreement before you
8 signed it?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Did you discuss it with your attorneys
11 before you signed it?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Did you fully understand the agreement
14 when you signed it?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Does this agreement include your
17 understanding of the entire agreement between you and the
18 government?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Mr. Wong, is there any other agreement or
21 is there any other promise about your plea or your sentence
22 that is not contained in this agreement?

23 THE DEFENDANT: No, your Honor.

24 THE COURT: Did anyone threaten you or force you to
25 enter into this agreement?

Nra2WonP kjc

1 THE DEFENDANT: No, your Honor.

2 THE COURT: Other than what is in the agreement, has
3 anyone promised you anything or offered you anything in order
4 to enter a guilty plea?

5 THE DEFENDANT: No, your Honor.

6 THE COURT: Has anyone made a promise to you as to
7 what your sentence will be?

8 THE DEFENDANT: No, your Honor.

9 THE COURT: Sir, there is a stipulation in the
10 agreement regarding the sentencing guidelines. It is referred
11 to as the stipulated guidelines range. Sir, do you understand
12 that that stipulation binds the government and it binds you,
13 but it does not bind me and I am still going to make my own
14 determination as to what I believe the applicable guidelines
15 range is?

16 Do you understand that?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: And there is also a stipulation in the
19 agreement concerning appeals. Essentially it says that if I
20 sentence you within or below the applicable -- rather, the
21 stipulated guidelines range, you are essentially giving up
22 your right to appeal the sentence that I impose.

23 Do you understand that?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Mr. Roos, would the government please

Nra2WonP kjc

1 summarize what it would expect to prove if the case were to go
2 to trial.

3 MR. ROOS: Yes, your Honor.

4 The government would prove that the defendant
5 received material nonpublic information from a friend and he
6 traded on that information knowingly, willfully, and with
7 intent to defraud. The proof would come in the form of
8 electronic messages and toll records that were -- the
9 electronic messages coming from devices that were seized, it
10 would come in the form of trading records for the stock of
11 Pandion, as well as witness testimony.

12 THE COURT: What is the government's proffer
13 concerning venue?

14 MR. ROOS: The trades either -- certain
15 coconspirators were located in Manhattan and/or the trades
16 were executed within Manhattan.

17 THE COURT: Thank you.

18 Mr. Wong, did you hear what the prosecutor said?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: And, sir, have you clearly understood
21 everything that has happened here today so far?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Mr. Wong, would you please now tell me in
24 your own words what it was that you did that you believe makes
25 you guilty of the crime to which you are pleading guilty.

Nra2WonP kjc

1 THE DEFENDANT: In February of 2021, I engaged in a
2 scheme to commit insider trading. Another individual provided
3 me with information about the planned acquisition of Pandion
4 Therapeutics by Merck & Co. I knew at the time that it was
5 material nonpublic information that should not have been
6 disclosed to me.

7 I did in fact make timely profitable trades in
8 Pandion stock based on this information. I executed these
9 trades via an online platform while located in Manhattan.

10 I know what I did was wrong and I deeply regret my
11 actions. As I stand before you today, I have tremendous
12 remorse and am truly sorry for what I have done.

13 THE COURT: Did I understand you to say that you
14 personally were in Manhattan when you executed these trades?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Mr. Wong, when you did these things, did
17 you know that what you were doing was wrong and against the
18 law?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Mr. Wong, did anyone threaten you or
21 force you to do those things?

22 THE DEFENDANT: No, your Honor.

23 THE COURT: Does either counsel wish me to make any
24 further inquiries? Mr. Roos?

25 MR. ROOS: Your Honor, I think government can just

Nra2WonP kjc

1 proffer that it would establish the duty element by proving
2 that there was a duty of trust and confidence between the
3 tipper who tipped Mr. Wong and the source of the information.
4 And also the government could proffer that it would establish
5 the jurisdictional element through proof of a national
6 exchange.

7 THE COURT: Mr. Stahl, do you wish me to make any
8 further inquiries?

9 MR. STAHL: No, your Honor.

10 THE COURT: Mr. Stahl, do you know of any reason why
11 Mr. Wong should not be permitted to plead guilty?

12 MR. STAHL: I do not, your Honor.

13 THE COURT: And Mr. Stahl, do you believe that there
14 is an adequate factual basis to support the plea of guilty?

15 MR. STAHL: Yes, I do, your Honor.

16 THE COURT: And Mr. Roos, is there an adequate
17 factual basis to support the plea of guilty?

18 MR. ROOS: Yes, your Honor.

19 THE COURT: Mr. Wong, how do you now plead to the
20 charge in Count Eight of the indictment? Guilty or not
21 guilty.

22 THE DEFENDANT: Guilty, your Honor.

23 THE COURT: Are you in fact guilty of that charge?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Are you pleading guilty voluntarily and of

Nra2WonP kjc

1 your own free will?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: There is a forfeiture allegation in the
4 indictment. Do you admit to the forfeiture allegation in the
5 indictment?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: The Court -- the record will also reflect
8 that I have been provided with a consent preliminary order of
9 forfeiture/money judgment. It has been executed by all of the
10 parties. I will also execute it at this time. It will be put
11 on the docket.

12 At this point, Mr. Wong, because you acknowledge that
13 you are in fact guilty as charged in Count Eight of the
14 indictment, because I find that you know your rights and are
15 waiving them knowingly and voluntarily with an understanding
16 of the consequences of your plea, including the potential
17 sentences that may be imposed, I accept your guilty plea and
18 find you guilty of Count Eight of the indictment.

19 I will now direct that a presentence investigation be
20 conducted by the probation office and that a report be
21 prepared.

22 Mr. Wong, you will be interviewed by the probation
23 office as part of that process. You can and should have your
24 attorneys with you when you are interviewed. But it is also
25 entirely possible that the probation office will want to

Nra2WonP kjc

1 interview members of your family with whom you live.

2 As I indicated previously, you will receive a copy of
3 a draft of that report before I see it. When you receive the
4 draft, you should review it very carefully with your attorneys
5 and bring to my attention any mistakes or discrepancies that
6 you may find therein. You and your attorneys will also have
7 the opportunity to speak on your behalf before I impose
8 sentence.

9 Do we have a date for sentence?

10 THE DEPUTY CLERK: Yes. July 20, 2023, at 10:30 a.m.

11 THE COURT: Is there anything further that we should
12 do today, Mr. Roos?

13 MR. ROOS: No, your Honor.

14 THE COURT: Mr. Stahl?

15 MR. STAHL: No, your Honor.

16 THE COURT: In that event, we are adjourned. We will
17 see you, in all likelihood, in July or shortly thereafter. We
18 are adjourned.

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